

**UNITED STATES DISTRICT COURT****District of New Mexico**UNITED STATES OF AMERICA  
V.**Corina Lovato****Judgment in a Criminal Case**

(For Offenses Committed On or After November 1, 1987)

**Case Number: 2:10CR02995-001JB**USM Number: **59254-051**Defense Attorney: **Darcy Blue Riley, Appointed**

THE DEFENDANT:

- ☒ pleaded guilty to count(s) **Information**
- ☐ pleaded nolo contendere to count(s) which was accepted by the court.
- ☐ after a plea of not guilty was found guilty on count(s)

The defendant is adjudicated guilty of these offenses:

| <i>Title and Section Nature of Offense</i>  | <i>Offense Ended</i> | <i>Count Number(s)</i> |
|---|----------------------|------------------------|
| 42 U.S.C.      Concealment of Event Affecting Right to Receive<br>Sec.1383a      SSI Benefits<br>(a)(3) | 01/22/2010           |                        |

The defendant is sentenced as provided in pages 2 through **5** of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count .
- ☐ Count dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

**May 11, 2011**

Date of Imposition of Judgment

**/s/ James O. Browning**

Signature of Judge

**Honorable James O. Browning**  
**United States District Judge**

Name and Title of Judge

**August 4, 2011**

Date Signed

Defendant: **Corina Lovato**  
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## PROBATION

The defendant is hereby sentenced to probation for a term of **:5 years**.

The Court incorporates by reference its Memorandum Opinion and Order, filed July 14, 2011 (Doc. 17) ("MOO"). The United States Probation Office ("USPO") disclosed a Presentence Investigation Report ("PSR") for Defendant Corina Martinez Lovato on February 25, 2011. In the PSR, the USPO calculated Lovato's offense level to be 10 and her criminal history category to be V, establishing a guideline imprisonment range of 21 to 27 months. There being no objections to the PSR's factual findings and sentencing calculations, the Court adopts them as its own. In its MOO, the Court granted Lovato a downward departure to a criminal history category of IV, because the PSR substantially overrepresented her criminal history.

The Court will vary downward, treating Lovato's offense level like a 7, which would place her in Zone B, and make her eligible for a sentence of probation. "Mental and emotional conditions may be relevant in determining whether a departure is warranted, if such conditions, individually or in combination with other offender characteristics, are present to an unusual degree and distinguish the case from the typical cases covered by the guidelines." U.S.S.G. § 5H1.3. Additionally, "[p]hysical condition or appearance, including physique, may be relevant in determining whether a departure is warranted." U.S.S.G. § 5H1.4. Lovato is a forty-eight year old mentally ill woman with numerous physical impairments and a traumatic childhood. There is some dispute whether Lovato's diagnosis should be schizophrenia, post-traumatic stress disorder, or generalized anxiety disorder, but she suffers from anxiety, antisocial behavior, and paranoia, and she has been receiving SSI benefits since at least 1994 based on her mental disability and her inability to engage in gainful employment. Lovato has rheumatoid arthritis. Her mother was an alcoholic who abandoned her when she was very young. Her father was an alcoholic who beat her and her siblings, and Lovato spent time in a foster home when she was twelve-years-old. The Court believes these circumstances, while not so extraordinary to warrant another departure, warrant a variance from the advisory sentencing guideline sentence to a range that is equivalent to one with an adjusted offense level reduction of three levels. An offense level of 7 and a criminal history of IV produces a guideline sentence of 8 to 14 months, and would make Lovato eligible for a sentence of probation.

The Court notes that Lovato concealed that she was married, an event that affected her SSI benefits. The Court believes a sentence of five-years probation with a period of 8-months home confinement with electronic monitoring is appropriate in this case, because it will allow Lovato to pay restitution, rather than consume additional public resources through incarceration. The Court has considered the guidelines, but, in arriving at its sentence, has taken into account not only the guidelines but other sentencing goals. The Court believes a sentence of five-years probation with a period of 8-months home confinement with electronic monitoring adequately reflects the seriousness of the offense, promotes respect for the law, provides just punishment, affords adequate deterrence, protects the public, and otherwise fully reflects each of the factors embodied in 18 U.S.C. § 3553(a). While the Court's task, as a district court, is not to arrive at a reasonable sentence -- it is to come up with one that reflects the factors in 18 U.S.C. § 3553(a), see *United States v. Conlan*, 500 F.3d 1167, 1169 (10th Cir. 2007) ("[A] district court's job is not to impose a reasonable sentence. Rather, a district court's mandate is to impose a sentence sufficient, but not greater than necessary, to comply with the purposes of section 3553(a)(2).") (citation omitted) -- the Court believes this sentence is reasonable and more so than one within the sentencing guideline range. Finally, the Court believes Lovato's criminal history is adequately reflected in this sentence, and that this sentence is sufficient without being greater than necessary to comply with the purposes of punishment Congress set forth in the Sentencing Reform Act of 1984, Pub. L. No. 98-473, 98 Stat. 1987.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance.

The defendant shall refrain from any unlawful use of a controlled substance.

The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable).
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable).
- ☐ The defendant shall register with the state, local, tribal and/or other appropriate sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable)

If this judgment imposes a fine or a restitution, it is a condition of probation that the defendant pay in accordance with the Criminal Monetary Penalties sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement;

Defendant: **Corina Lovato**  
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### **SPECIAL CONDITIONS OF SUPERVISION**

**The defendant must participate in and successfully complete location monitoring for a period of 8 months in the location monitoring program with the Radio Frequency (RF) technology under the home detention component. The defendant may be required to pay a portion or all costs of such program.**

**The defendant shall not possess, have under her control, or have access to any firearm, ammunition, explosive device, or other dangerous weapons, as defined by federal, state, or local law.**

**The defendant must submit to a search of her person, property, or automobile under her control to be conducted in a reasonable manner and at a reasonable time, for the purpose of detecting illegal controlled substances at the direction of the probation officer. She must inform any residents that the premises may be subject to a search.**

**The defendant must refrain from the use and possession of alcohol and other forms of intoxicants. She must not frequent places where alcohol is the primary item for sale.**

**The defendant must provide the probation officer access to any requested financial information, personal income tax returns, authorization for release of credit information, and other business financial information in which the defendant has a control or interest.**

**As to the following standard condition, it shall not apply to employers: as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirements.**

**The Defendant must participate in and successfully complete a substance abuse treatment program which may include drug testing or outpatient counseling. The defendant is prohibited from obstructing or attempting to obstruct or tamper, in any fashion, with the collection, efficiency and accuracy of any substance testing device or procedure. The defendant may be required to pay a portion of the cost of treatment and/or drug testing as determined by the Probation Office.**

**The Defendant must participate in and successfully complete a mental health treatment program which may include outpatient counseling as approved by the probation officer. The defendant may be required to pay a portion of the cost of this treatment as determined by the Probation Office.**

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### CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties in accordance with the schedule of payments.

☒ The Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

|         |                   |               |                    |
|---------|-------------------|---------------|--------------------|
| Totals: | <b>Assessment</b> | <b>Fine</b>   | <b>Restitution</b> |
|         | <b>\$waived</b>   | <b>\$0.00</b> | <b>\$40,026.58</b> |

### SCHEDULE OF PAYMENTS

Payments shall be applied in the following order (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

A ☒ In full immediately; or

B ☐ \$ immediately, balance due (see special instructions regarding payment of criminal monetary penalties).

**Special instructions regarding the payment of criminal monetary penalties:** Criminal monetary penalties are to be made payable by cashier's check, bank or postal money order to the U.S. District Court Clerk, 333 Lomas Blvd. NW, Albuquerque, New Mexico 87102 unless otherwise noted by the court. Payments must include defendant's name, current address, case number and type of payment.

**Pursuant to the Mandatory Victim Restitution Act, it is further ordered that the Defendant will make restitution to Social Security Administration Debt Management Section, ATTN: Court Refund P.O. Box 2861, Philadelphia, PA 19122, in the amount of \$40,026.58. The restitution will be paid in monthly installments at a rate of 10% of the Defendant's gross monthly income but not less than \$100.00 per month.**

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are to be made as directed by the court, the probation officer, or the United States attorney.